

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JARED ANDREW MARTIN,

Plaintiff,

v.

GUTIERREZ, et al.,

Defendants.

No. 1:22-cv-00600-ADA-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF ACTION FOR FAILURE TO
PROSECUTE

(ECF No. 35)

Plaintiff Jared Andrew Martin (“Plaintiff”) is a county jail inmate and former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Gutierrez for excessive force in violation of the Eighth Amendment.

On April 10, 2023, the Court granted Defendant’s motion to stay this civil action pending resolution of a state criminal proceeding against Plaintiff and directing Defendant to file a status report in thirty days and every ninety days thereafter. (ECF No. 33.) On April 24, 2023, the Court’s order staying the case was returned as “Undeliverable, Not in Custody.” Plaintiff’s notice of change of address was therefore due on or before June 26, 2023. *See* Local Rule 183(b) (“If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.”).

1 Accordingly, on August 11, 2023, the Magistrate Judge issued findings and
2 recommendations recommending dismissal of this action, without prejudice, based on Plaintiff's
3 failure to prosecute. (ECF No. 35.) Those findings and recommendations were served on the
4 parties and contained notice that any objections thereto were to be filed within fourteen days after
5 service. (*Id.* at 3.) On August 24, 2023, the findings and recommendations served on Plaintiff's
6 address of record were returned as "Undeliverable, Not in Custody."

7 No objections have been filed, and the deadline to do so has passed. Plaintiff has not
8 otherwise communicated with the Court regarding this action.


9 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a
10 *de novo* review of the case. Having carefully reviewed the entire file, the Court concludes that the
11 Magistrate Judge's findings and recommendations are supported by the record and by proper
12 analysis.

13 Accordingly,

- 14 1. The findings and recommendations issued on August 11, 2023, (ECF No. 35), are
15 adopted in full;
- 16 2. This action is dismissed, without prejudice, due to Plaintiff's failure to prosecute;
17 and
- 18 3. The Clerk of the Court is directed to close this case.

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21 IT IS SO ORDERED.

22 Dated: September 12, 2023

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UNITED STATES DISTRICT JUDGE